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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|--------------------------------|------------------------------|-------------------|
| 10/542,831 | 09/22/2005 | Roland Frans Cyrille Vanblaere | 17042-006US1 FMB/P67265US | 9025 |
| 26161 | 7590 | 12/23/2008 | EXAMINER | |
| FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022 | | | | JACYNA, J CASIMER |
| ART UNIT | | PAPER NUMBER | | |
| | | 3754 | | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 12/23/2008 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/542,831 | VANBLAERE ET AL. | |
| | Examiner | Art Unit | |
| | J. Casimer Jacyna | 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 December 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.
 4a) Of the above claim(s) 5,7-13,22,23,29 and 30 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4 6 14-21 24-28 31 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>06/12/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3754

1. Applicant's election without traverse of figure 5 in the reply filed on 12/1/2008 is acknowledged.

2. Claims 5, 7-13, 22, 23, 29 and 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/1/2008.

3. The disclosure is objected to because of the following informalities: The specification lacks the headings noted in MPEP 608.01(a).

Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 27 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 42 41 074. The embodiment of figure 1 of DE discloses an article for pressurizing a fluid including a product chamber 1, a working propellant chamber located between the wall attached to 7 and expandable wall as is plunger 3 in figure 1, a reservoir propellant chamber 4, and a pressure controller 5.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-4, 6, 14-21, 24, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 41 074 in view of WO 99/62791. DE discloses a pressure package system substantially as claimed but does not disclose the pressure controller to have a reference fluid. However, WO teaches another pressure controller having reference fluid 6 for the purpose of improving the maintenance of a constant pressure in the working pressure chamber. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of DE with a reference fluid in the pressure controller as, for example, taught by WO in order to improve the maintenance of a constant pressure in the working pressure chamber.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 42 41 074 in view of Everett 3,140,802. DE discloses a pressure package system substantially as claimed but does not disclose the pressure package to be plastic. However, Everett teaches another pressure package system having a plastic pressure package 18 that is made from plastic for the purpose of providing a suitable material that is readily available, flexible and impervious to the enclosed gas. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of DE with a plastic pressure package as, for example, taught by Everett in order to provide a suitable material that is readily available, flexible and impervious to the enclosed gas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754